

**RESOLUTION NO. RC2017-5**

**RESOLUTION OF THE CITY OF WEST LAFAYETTE, INDIANA,  
REDEVELOPMENT COMMISSION AUTHORIZING THE ACQUISITION OF  
CERTAIN REAL PROPERTY LOCATED IN THE LEVEE/VILLAGE ECONOMIC  
DEVELOPMENT AREA**

WHEREAS, the City of West Lafayette Redevelopment Commission (the "Commission"), governing body of the City of West Lafayette Department of Development (the "Department") and the Redevelopment District of the City of West Lafayette, Indiana (the "Redevelopment District"), exists and operates under the provisions of I.C. 36-7-14, as amended from time to time; and

WHEREAS, the Commission proposes to acquire certain real property (the "Parking Spaces") owned by West Lafayette Apartment Homes, LLC ("WLAH") located in the Levee/Village Economic Development Area ("Area") described as Lots 2F through 12 F in the Amended Final Plat of Wabash Landing, Phase One, Part One, as recorded in Plat Cabinet 7, Slide 93, as Instrument No. 01046032 in the Office of the Recorder of Tippecanoe County, Wabash Township, Tippecanoe County, Indiana pursuant to the provisions of IC 36-7-14-19, as amended (a draft of the purchase agreement is attached hereto);

WHEREAS, the Commission proposes to lease the Parking Spaces to WLAH under a Parking Lease Agreement; and

WHEREAS, the Commission has caused two separate appraisals (the "Appraisals") to be made of the purchase value of the Real Property by two independent appraisers, namely, Dale Webster d/b/a Cornerstone Appraisal and Benjamin S. Cottingham of McClain Cottingham & Gilligan, LLC (collectively, the "Appraisers"); and

WHEREAS, in undertaking the Appraisals, the Appraisers took into consideration the size, location and physical condition of the Parking Spaces, the advantages accruing to the Parking Spaces under the Economic Development Plan relating to the Area, and all other factors having a bearing on the value of the Parking Spaces;

NOW THEREFORE, BE IT RESOLVED by the City of West Lafayette Redevelopment Commission as follows:

1. The Commission hereby finds and determines that the acquisition of the Parking Spaces will further the economic development purposes of the Area.
2. The Commission hereby finds and determines that the purchase price for the Parking Spaces shall be \$831,000.00, which is the average of the two Appraisals.
3. Said purchase price shall be paid over a period of ten (10) years at the cost of

\$83,100.00 per year from Levee/Village Tax Increment funds.

3. The President and Secretary of the Commission are hereby authorized to finalize the purchase agreement and take all action necessary for the acquisition of the Parking Spaces.

4. The Commission hereby accepts the Appraisals as presented to the Commission, which appraisals are solely for the information of the Commission and are not open for public inspection.

5. This Resolution shall be in full force and effect from and after its adoption by the Commission.

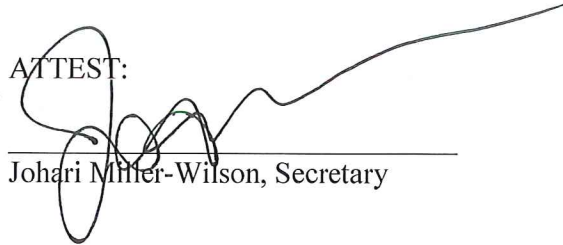
ADOPTED AND APPROVED at a meeting of the City of West Lafayette Redevelopment Commission held on the 17<sup>th</sup> day of May, 2017.

CITY OF WEST LAFAYETTE, INDIANA  
REDEVELOPMENT COMMISSION



\_\_\_\_\_  
Lawrence T. Oates, President

ATTEST:



\_\_\_\_\_  
Johari Miller-Wilson, Secretary

## **PURCHASE AGREEMENT**

The Redevelopment Commission of West Lafayette ("Commission") offers to purchase from Wabash Landing Apartment Homes, LLC ("WLAH"), the following described real estate ("Real Estate") described as follows:

See attached Exhibit A

### **I**

#### **RESIDENTIAL REAL ESTATE SALE**

1. Purchase Price. The Purchase price for the Real Estate shall be Eight Hundred Thirty One Thousand Dollars (\$831,000.00) ("Purchase Price").

2. Payment. Said Purchase Price shall be paid as follows:

The sum of Eight Three Thousand One Hundred Dollars (\$83,100.00) per year for ten (10) years from tax increment property taxes levied in the Levee/Village Tax Increment Financing District.

### **II**

#### **GENERAL TERMS AND CONDITIONS**

The following terms and conditions shall be applicable to the Real Estate sale:

1. Conditions of Offer. Unless waived in writing by Commission, Commission's obligations hereunder are subject to the satisfaction of the following conditions:

2. Evidence of Title. Within five (5) days from acceptance of this offer, WLAH, at WLAH's expense, shall provide Commission with a commitment for title insurance, issued by a title insurance company authorized to do business in Indiana, committing the company to issue a standard ALTA owner's policy, insuring marketable title to the Real Estate in the name of the Commission for the amount of the Purchase Price, subject only to such exceptions as are permitted by this Agreement. Title shall not be considered unmarketable by reason of, and Commission shall accept title subject to: (a) a mortgage or other lien which, if not satisfied prior to closing, shall be paid and satisfied at closing; (b) recorded or visible easements for public roads, utilities, drainage, CATV or other public purposes upon which existing improvements on the Real Estate do not encroach; provided, however, at the time of closing: (1) there is no existing violation of the restrictions by the existing improvements or the present use thereof; and (2) there is no provision

for reversion, re-entry, of forfeiture of title by reason of the restrictions. The title company shall also provide Commission with copies of all instruments, if any, referred to in the commitment as exceptions to title. Commission shall have five (5) days after receipt of the commitment to have the evidence examined and to notify WLAH of any title effects not permitted by this Agreement. Upon expiration of said five (5) day period, Commission shall be deemed to have accepted such title evidence. WLAH shall use reasonable efforts and shall have a reasonable time, not to exceed thirty (30) days to correct, at WLAH's expense, any title defect not permitted by this Agreement. If such defect is not corrected within said period, Commission may terminate this Agreement by giving written notice thereof within ten (10) days after expiration of such thirty (30) day period. The Real Estate is also sold subject to any state of facts that would be disclosed by personal inspection and/or an accurate survey thereof.

3. Taxes and Assessments. WLAH shall pay the 2016 taxes due and payable in 2017 and the 2017 taxes due and payable in 2018, prorated to the date of closing, using the most recent tax bill if the applicable tax rate has not been set. Commission shall assume and pay all subsequent taxes, if any. WLAH shall pay any assessments for public improvements which, as of the date of closing, have been completed or are being constructed or installed on or about the Real Estate, or are serving it. If not yet assessed, WLAH shall pay an amount reasonably estimated by the applicable government agency to be equal to the anticipated assessment. WLAH warrants that WLAH has no knowledge of, and has not received any written notice regarding, any planned improvement for which an assessment reasonably might be made within one year of this date. Commission shall assume and pay all assessments becoming a lien after closing.

4. Insurance, Utility Bills. Insurance shall be canceled as of date of possession. WLAH shall pay all utility bills for services rendered on the Real Estate to date of possession.

5. Condition of Real Estate. The Real Estate is sold in "as is" condition as of the date of this Agreement and the condition thereof is in no way warranted by WLAH.

6. Closing. The transaction shall be closed on or before July 27, 2017, unless an extension of time is mutually agreed to in writing. At date of closing, WLAH shall execute and deliver in recordable form a general warranty deed conveying the Real Estate subject to all roadways, covenants, restrictions, easements and rights-of-way of record, all applicable zoning laws, and free and clear of all other liens and encumbrances except as stated in this Agreement, and shall also execute and deliver a standard WLAH's closing affidavit.



7. Possession. WLAH shall have full and complete possession of the Real Estate at the time of closing.

8. Default. If WLAH, through no fault of WLAH, is unable to convey marketable title as required by this Agreement and the defect or defects are not waived by Commission, WLAH's sole obligation shall be to continue to operate as garage manager under the Restated Parking Management Agreement dated December 17, 2007. If WLAH fails or refuses to perform as required by this Agreement, Commission may elect to (a) treat this Agreement as cancelled and terminated, in which case any payments shall be returned to Commission and Commission may recover such damages as may be proper; or (b) treat this Agreement as being in full force and effect, and Commission shall have the right to specific performance or damages, or both. If Commission fails or refuses to perform as required by this Agreement, WLAH may elect to (a) treat this Agreement as cancelled and terminated, or (b) treat this Agreement as being in full force and effect, and WLAH shall have the right to specific performance or damages, or both.

9. Costs and Attorney's Fees. If either party shall be compelled to employ an attorney to enforce the provisions of this Agreement after default, the non-defaulting party shall be entitled to recover from the defaulting party, as a part of such action or in a separate action brought for that purpose, in addition to any remedies available under this Agreement, all legal costs and expenses, including reasonable attorney's fees, incurred thereby.

10. Compliance. WLAH and Commission agree to provide all information necessary to complete and execute all documents and perform all actions necessary to comply with all government statutes and regulations. Upon Commission's request, WLAH shall provide and pay for a certification on non-foreign status under FIRPTA. If such certification is not so provided, Commission may withhold from WLAH's proceeds any tax due under FIRPTA.

11. Miscellaneous.

- a. This Agreement contains the entire agreement of the parties. All prior understandings and agreements, written or oral, are merged herein.
- b. No modification of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.
- c. Time for performance of the obligations of the parties is of the essence of this Agreement. Time periods specified in this Agreement are calendar days and shall

expire on midnight of the date stated unless otherwise stated herein or the parties agree in writing to a different date and/or time.

- d. Notice to either party shall be effective when received by such party unless otherwise provided herein.
- e. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted.
- f. This Agreement shall be binding upon and shall inure to the sole benefit of the parties and their respective heirs, personal representatives, successors and permitted assigns. None of the provisions are intended to be, nor shall they be construed to be, for the benefit of any third party.
- g. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

**COMMISSION:**

**WLAH:**

Redevelopment Commission of West Lafayette

Wabash Landing Apartment Homes, LLC

By: \_\_\_\_\_  
Lawrence T. Oates, President

By: \_\_\_\_\_

Attest: \_\_\_\_\_  
Johari Miller-Wilson, Secretary